

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

International Information Systems Security Certifications Consortium	:	
	:	
Plaintiff,	:	Case No.: 2:07-cv-1195
	:	
v.	:	Judge Marbley
	:	
Miko Degraphenreed, et al.	:	Magistrate Judge King
	:	
Defendants.	:	

MOTION TO DISMISS DEFENDANT YAHOO!, INC.

Pursuant to Rule 41(a)(2), Plaintiff International Information Systems Security Certifications Consortium, moves this Court for an Order dismissing all claims against Defendant Yahoo!, Inc., with prejudice. A brief memorandum in support of this motion is attached. A proposed agreed order with the consent of Yahoo!, Inc. will be separately forwarded to the Court's chambers.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

The present action alleges that Defendants Degraphenreed and Degrapheinread Information Systems Security Corporation (DISS Corp.) have been and are engaged in activities that infringe Plaintiff's federally-registered trademark. The Complaint asserts trademark infringement, unfair competition and false designation, dilution, and other claims against Degraphenreed and DISS Corp.

The Complaint also alleges that Defendants Google, Inc. and Yahoo!, Inc. contributed to Degraphenreed's and DISS Corp.'s infringement by providing the method and platform for publication of infringing materials on the Internet. Plaintiff sought only injunctive relief against Defendants Google and Yahoo, requiring the removal of existing infringing material from the Internet and prevention of posting of future infringing material. Plaintiff does not seek direct damages from Google or Yahoo.¹

During the intervening period since the Complaint was filed on November 16, 2007, the allegedly infringing material contained on websites hosted or published by Defendant Yahoo has been removed. Because the material that Plaintiff alleged constituted contributory infringement by Yahoo is no longer on the Internet, there is no need for this action to proceed against Yahoo. Therefore, Plaintiff seeks to dismiss its claims against Yahoo with prejudice, while proceeding against the remaining Defendants.

¹ Following the removal of infringing material from websites hosted or published by Defendant Google, Plaintiff moved for voluntary dismissal of Defendant Google. The Court granted this motion on January 11, 2008. (Dock. No. 23.)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was duly served by ordinary U.S. mail, first class postage prepaid, or electronically through the Court's ECF System at the email addresses registered with the Court, upon the following parties this 11th day of February, 2008:

s/Craig R. Carlson by Joshua A. Kimsey
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